

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DANIEL H. AND RUTHANNE FILE,</p> <p>v.</p> <p>Respondent:</p> <p>HINSDALE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 52129</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on May 18, 2010, Debra A. Baumbach and MaryKay Kelley presiding. Daniel H. File appeared pro se for Petitioners. Respondent was represented by Michael O’Loughlin, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**9000 Hinsdale County Road 30, Lake City, Colorado
(Hinsdale County Schedule No. R-001435)**

The subject property is a 1,936 square foot frame house built in 1994. The 1,500 square foot lower level is comprised of a 1,095 square foot garage and a 405 square foot finished office. A 457 square foot hay barn also sits on the property. The five-acre site is classified as agricultural.

Respondent assigned an actual value of \$288,960.00 for the subject property. Petitioners are requesting a value of \$226,880.00.

Mr. Fine presented eight sales, their assigned value range being 9% to 34% below that of the subject. He concluded, after comparing all properties, that the subject was overvalued by 17%.

Mr. Fine noted that the assessor's 2009 property card included a new feature identified as "basement", adding \$10,500.00 to his already-identified basement garage and finished office. He concluded that the new feature was an error and should be omitted.

Petitioners' requested value of \$226,880.00 reflects deletion of the erroneous \$10,500.00 newest basement assessment and the 17% adjustment reflecting the subject's inflated assigned value.

Respondent presented an indicated value of \$330,000.00 for the subject property based on the market approach. The witness presented three comparable sales ranging in sales price from \$295,000.00 to \$365,000.00 and in size from 1,372 to 1,544 square feet. After adjustments were made, the sales ranged from \$296,300.00 to \$365,770.00. This approach reflected the assigned value for the subject's agriculturally-classified land.

Respondent's witness discussed the new basement assessment on the property card. On determination that county-wide basement assessments were too low, an additional "exterior wall" feature was added. Interior space, whether garage or finished living space, remained without change.

Respondent's witness, noting that three of Petitioners' eight sales were used in the county's appraisal, discussed the other five. 829 Hotchkiss Street had no basement and was considerably smaller with inferior construction quality. 2157 San Juan Springs Drive's lower level was a walkout and in the future will be addressed as prime living space. 2556 Elk Road was a one-level structure without basement and with garage conversion to living space. 2344 Elk Road was an A-frame on a drastically-sloped lot. 2353 Elk Road was a one-story house with a basement that included garage and finished living space. The witness concluded that none of the five were better comparisons than those presented in her report.

Respondent presented sufficient probative evidence and testimony to prove that the subject property was correctly valued for tax year 2009.

Petitioners used an equalization argument, comparing assigned values. The Board can consider an equalization argument if evidence or testimony shows that the assigned values of the equalization comparables were derived by application of the market approach and that each comparable was correctly valued. Since that evidence and testimony was not presented, the Board gives limited weight to the equalization argument presented by Petitioners.

The Board concludes that only one of Petitioners' comparable sales was similar to the subject. 2353 Elk Road, like the subject, had a basement garage and finished living space. Adjustments for time, age, acreage, and size indicated an adjusted value below the adjusted values for Respondent's three comparable sales, but it alone does not provide sufficient compelling evidence to warrant a reduction in value.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 28th day of July 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

H. Flannery

Heather Flannery

